

## **ARTICLE 18**

### **GENERAL PROVISIONS**

#### **SECTION 18-1. CERTIFICATE OF OCCUPANCY.**

- 18-1-1.1 If a proposed use is in conformity with the provisions of this Ordinance, a Certificate of Occupancy shall be issued by the Zoning Administrator. Pending the issuance of this certificate, a temporary Certificate of Occupancy may be issued. Such temporary certificate shall not be construed as in any way altering the respective rights, duties, or obligations of the owner or the City relating to the use or occupancy of the land or building or any other matter covered by this Ordinance. Application for a Certificate of Occupancy shall be made to the Zoning Administrator. A Certificate of Occupancy issued under this section does not indicate compliance with any City codes or Ordinance other than the Zoning Ordinance. (10-11-83, Case #83-06, Ord. No. 034-83)
- 18-1-1.2 Written application for a Certificate of Occupancy for the use of vacant land or for a change in the use of land or a building, for a change of a nonconforming use, for the enlargement of a use for the continuation of a use as provided in Section one (1) of this Article, shall be made to the Zoning Administrator. If the proposed use is in conformity with the provisions of this Ordinance, and of all other applicable laws and ordinances, as certified to the Zoning Administrator by the officers, bodies, or agencies responsible for the administration thereof, the Certificate of Occupancy shall be issued within five (5) working days after the application for the same has been made.
- 8-1-2 **WHEN REQUIRED.**
- 18-1-2.1 A Certificate of Occupancy shall be obtained from the Zoning Administrator for any of the following:
- a. Occupancy and use of a building hereafter erected.
  - b. Change in the use of an existing building.

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- c. Occupancy and use of vacant land, except for any agricultural use.
- d. Change in the use of land, except for any agricultural use.
- e. Any change in the use of a nonconforming use.
- f. Enlargement of any use with respect to the unit of measurement specified in this chapter as the basis for determining the amount of required automobile parking space, whether the same is specified in terms of floor area, dwelling units, seats, or any other element of size of the use.

- 18-1-2.2 No such occupancy, use, or change or enlargement of use shall take place until a Certificate of Occupancy therefore has been issued by the Zoning Administrator.
- 18-1-3 NOT TO PERMIT VIOLATIONS OF LAW. No Certificate of Occupancy shall be deemed to validate any violation of any provision of any law or ordinance.
- 18-1-4 EFFECT. A Certificate of Occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect so long as such building and the use thereof or of such land is in full conformity with the provisions of this Ordinance and any requirements made pursuant thereto. On the serving of notice of any violation of any of such provisions or requirements with respect to any building, or the use thereof or of land, the Certificate of Occupancy for such use shall thereupon become null and void and a new certificate shall be required for any further use of such building or land.
- 18-1-5 FOR BUILDINGS OR LAND WHEN REGULATIONS CHANGE. On written request by the owner, the Zoning Administrator shall issue a Certificate of Occupancy for any use of a building or of land existing at the time of the adoption of this Ordinance or at the time of the adoption of any amendments of this Ordinance changing the regulations applying to such building or land, certifying, after inspection and investigation, the extent and kind of such use and whether the same conforms to the provisions of this chapter for the district in which it is situated or is a nonconforming use. The Zoning Administrator may require such proof as may be necessary to enable him to make a determination in the matter, and the furnishings of such proof shall be a condition of his acting on the request.

### **SECTION 18-2. CONDITIONAL USE PERMIT.**

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**(10-11-83, CASE #83-06, ORD. NO. 034-83)**

### **18-2-1           CONDITIONAL USE PERMIT.**

18-2-1.1       Conditional use permits may be granted by the City Council for any of the uses for which a permit is required by the provisions of this Ordinance. In granting any such use permit, the City Council may impose any such conditions in connection therewith as will assure that it will conform with the requirements contained herein and will continue to do so, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. A conditional use permit shall not be issued unless the City Council shall find that:

- a.       The proposal as submitted or as modified will not affect adversely the health, safety, or welfare of persons residing or working in the neighborhood of the proposed use; and will not be detrimental to public welfare or injurious to the property or improvements in the neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibration, with due regard for timing of operation, screening, and other matters which might be regulated to mitigate adverse impact.
- b.       The proposal as submitted or modified will conform to the Comprehensive Plan, or to specific elements of such plan, and the official policies adopted in relation thereto, including the purposes and the expressed intent of this Ordinance.

18-2-1.2       Proposals for transmitting and receiving facilities and towers for cellular communications systems and similar communications systems shall demonstrate the following: (2-14-96, Case TA-95-07, Ord. No. 002-96)

- All possible means for sharing space on existing towers or on existing buildings or other structures have been exhausted and no alternative other than constructing a new tower exists, and if a new tower is proposed, the applicant has executed a Letter of Intent to share space on their tower and negotiate in good faith with other interested parties.;
- The height of any tower is no more than the minimum to accomplish required coverage and any new tower is separated from property lines in a residential district by not less than the height of the tower. In no case shall any tower exceed 75 feet in height in a LR, MR, HR, RO-1, RB-1 or HS Districts, nor 100 feet in the B-1, B-2, CM-1, PSC, MC or HE-1 Districts, nor 200 feet in the M-1 or M-2 Districts;

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- The tower construction is of a design which minimizes the visual impact and the tower and other facilities have been camouflaged and/or screened from adjacent properties and rights of way to the maximum extent practicable. To this end, the proposal must provide for retention of existing stands of trees and the installation of screening where existing trees do not mitigate the visual impact of the facility. Such screening must, at a minimum, meet the requirements of Section 19-5-6.4d of this Ordinance. The Planning Commission may recommend and the City Council may require additional trees and screening when the minimum provisions do not mitigate adverse visual impacts of the facility;
- The electromagnetic fields do not exceed the radio frequency emission standards established by the American National Standards Institute or standard issued by the Federal Government subsequent to the adoption of this Ordinance.

### 18-2-3 PROCEDURES.

- 18-2-3.1 The procedures governing the application for and the granting of conditional use permit where required by this Ordinance shall be as follows: (10-11-83, Case #83-06, Ord. No. 034-83)
- 18-2-3.2 The applicant, who shall be a record owner, or contract owner with written approval of the owner, of the land involved (if a contract owner, copy of said contract shall be filed with and made a part of application), shall make application for the use permit to the Administrator on the form provided for that purpose, giving all information required by such form, including such other information which the Administrator may deem necessary for an intelligent consideration of the project for which a permit is desired. The application shall be accompanied by the fee as per Section 23-8, evidence of delinquent tax payment per Section 23-9, and disclosure of real party interest per Section 23-10 of this Ordinance and ten (10) copies of the following: (10-13-92, Case #TA-92-02, Ord. No. 016-92), (8-16-02, Case TA-02-04, Ord. No. 014-2002)
- 18-2-3.3 A site plan in accordance with Article 19 of this Ordinance.
- 18-2-3.4 The front, side, and rear elevations and floor plans of the proposed buildings.
- 18-2-3.5 Public Notice and Hearing. The Administrator shall submit the conditional use permit application and copies of the site plan to the

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Commission, which shall make a recommendation to City Council which shall approve, approve with conditions, or deny the application. No such use permits shall be considered by the Commission or the Council except after notice and hearing as per Section 23-7-1 of this Ordinance. Written notice shall be provided per Section 23-7-2 of this Ordinance for both the Commission and City Council hearings. (2-9-88, Case #TA-87-14, Ord. No. 009-88) (10-13-92, Case #TA-92-02, Ord. No. 016-92)

18-2-3.6      Notification Signs. For the hearing by both the Commission and City Council, the applicant shall place notification signage as per Section 23-7-3 of this Ordinance. (2-9-88, Case #TA-87-14, Ord. No. 009-88) (10-13-92, Case #TA-92-02, Ord. No. 016-92)

18-2-3.7      Upon the granting of a use permit, one (1) copy of the site plan, upon which has been indicated the changes or restrictions, if any, required by the City Council or the Board of Zoning Appeals, shall be returned to the applicant, who may thereafter conduct the operations for which permits has been granted only in such manner and for such a time as the permit and the certified drawing shall specify. A use permit shall be valid for only the specific use it covers in the specific location designated.

18-2-3.8      **EXPIRATION**  
Notwithstanding any specific provision of any condition imposed by City Council in conjunction with the granting of a Conditional Use Permit which may conflict with this general provision, a Conditional Use Permit shall expire immediately upon any of the following occurrences: a) the use does not commence within one year of approval; b) the use ceases for more than one year; c) the use changes to another use allowed in the district; or, d) the applicant or successor fails to comply with any conditions imposed by City Council per Section 18-2-1.1. In cases where government action impedes reasonable operation of the use, these provisions shall not include the duration of such restrictions. Where permits are granted for portions of a site and/or structure, the expiration shall apply to just that portion of the site and/or structure.(10-13-92, Case TA-92-02, Ord. No. 016-92) (6-13-00, Case TA-00-03, Ord. No. 015-2000)

### **SECTION 18-3.      USES NOT PROVIDED FOR.**

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- 18-3-1 Uses not specifically permitted in any district established under this Ordinance shall not be allowed. Persons desiring inclusion in this Ordinance of a use not specifically permitted shall apply for an amendment to the text of the Ordinance, following the provisions of Article 22, AMENDMENTS. (10-11-83, Case #83-06, Ord. No. 034-83)

### **SECTION 18-4. RESERVED.**

### **SECTION 18-5. USE AND STORAGE OF RECREATIONAL EQUIPMENT.**

- 18-5-1 No major recreational equipment shall be used for living, sleeping, or other occupancy when parked or stored on a residential lot, or in any other location not approved for such use.

### **SECTION 18-6. MINIMUM OFF-STREET PARKING.**

- 18-6-1.1 Every use or structure instituted, constructed, erected, enlarged, or structurally altered after the effective date of this Ordinance shall provide off-street parking areas in accordance with the provisions of this article, except as otherwise provided for in this Article. (1-12-93, Case #TA-92-03, Ord. No. 001-93)
- 18-6-1.2 Such off-street parking areas shall be maintained and continued as long as the main use is continued. (1-12-93, Case #TA-92-03, Ord. No. 001-93)
- 18-6-1.3 No owner or operator of any structure affected by this Article shall discontinue, change, or dispense with the required off-street parking areas without establishing alternative facilities which meet the requirements of this Article. (1-12-93, Case #TA-92-03, Ord. No. 001-93)
- 18-6-1.4 No person, firm, or corporation shall utilize such structure or use without providing the off-street parking areas to meet the requirements of and be in compliance with this Article. (1-12-93, Case #TA-92-03, Ord. No. 001-93)
- 18-6-1.5 When a permitted use is nonconforming as to required off-street parking areas, and said use is enlarged with respect to the unit of measurement specified in this Section as the basis for determining the amount of parking, loading and standing spaces, additional off-street parking areas shall be required only on the basis of the enlargement of the permitted use. (1-12-93, Case #TA-92-03, Ord. No. 001-93)
- 18-6-1.6 Off-street parking for residential uses of single-family detached dwellings shall be exempt from all provisions of this Article except for Section

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18-6-5. Required off-street parking spaces for single-family detached dwellings shall be at least 9 feet wide and 20 feet deep and except that driveways in front yards of single family lots shall not exceed twenty (20) feet in width for the first ten (10) feet adjacent to the front lot line and shall not encumber more than thirty five percent (35%) of the front yard, except that any single family lot may, at a minimum, provide a nine (9) foot wide by twenty (20) foot long off-street parking area in the front yard unless otherwise restricted by a PUD or conditional zoning. (1-12-93, Case #TA-92-03, Ord. No. 001-93), (1-14-03, Case #TA-02-09, Ord. No. 002-2003)

### 18-6-2 DEFINITIONS.

18-6-2.1 Building Capacity. The seating capacity of a structure or the number of employees shall be the maximum which can be accommodated on the premises.

18-6-2.2 Loading Space. A space or a portion of any area designated, required, or by its nature used as an area for the temporary parking of motor vehicles while transferring, loading, or unloading goods, merchandise, products, or while performing services. Such space shall be a minimum of ten (10) feet in width, twenty-five (25) feet in length, and fifteen (15) feet in height.

18-6-2.3 Off-Street Parking Area. An area of land other than within a public right-of-way required or provided to accommodate parking spaces, standing spaces, vehicular display or storage spaces, loading spaces, and necessary access drives, aisles and islands which are wholly segregated from any other portion of the site by continuous curbing except for ingress or egress connections, loading bays, areas where a sidewalk provides a sufficient raised edge, or places providing required handicap access. A separation of at least three (3) feet from any site feature more than six (6) inches above or below the elevation of the closest point in the parking area shall be provided. Parking areas may be surface lots or within structures. Curbing and separation standards herein may be waived by the Administrator after consultation with the Commission when it can be demonstrated that the waiver(s) will not encourage undesirable nor unsafe vehicle encroachment. Portions of structures allocated to parking shall not be subject to the provisions of Section 18-6-4. (9-13-88, Case #TA-88-05, Ord. No. 035-88) (1-12-93, Case #TA-92-03, Ord. No. 001-93) (8-8-95, Case #TA-95-03, Ord. No. 032-95)

18-6-2.4 Parking Space. A portion of an off-street parking area used for the temporary storage of a passenger vehicle. Except as elsewhere noted, in

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order to be credited as a required space, the following minimum standards must be met: (1-12-93, Case #TA-92-03, Ord. No. 001-93)

ANGLE	STALL WIDTH	TOTAL MODULE AISLE PLUS SPACES ON ONE SIDE	TOTAL MODULE AISLE PLUS SPACES ON BOTH SIDES
90	9 ft.	42 ft.	60 ft.
75	9 ft.	40 ft.	59 ft.
60	9 ft.	36 ft.	54 ft.
45	9 ft.	30 ft.	48 ft.
0	22 ft.	21 ft.	32 ft.

**Note:** Aisles are two-way for 90 degree angled parking, and one-way for all other angles. Perpendicular (90 degree) parking is encouraged.

Where a parking space fronts upon another parking space and is not separated by means of curbed landscaped median of four (4) feet or more in width, said space shall be increased by two feet in depth to allow for vehicle overhang. In parking areas containing more than 20 spaces designated for employee parking, the Commission may allow reductions to the parking space stall width if said spaces are restricted to employee parking and indicated by the posting of signs reading "Small Cars Only." (9-13-88, Case #TA-88-05, Ord. No. 035-88)

18-6-2.5 Repealed. (01-12-93)

18-6-2.6 Standing Space. A space by its nature used as an area for the temporary stopping of a motor vehicle, while under the control of its driver, for the purpose of embarking or discharging passengers, baggage, or merchandise, or for the purpose of utilizing special motor vehicle-oriented services. Such space shall be a minimum of nine (9) feet in width and eighteen (18) feet in length. (1-12-93, Case TA-92-03, Ord. No. 001-93)

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- 18-6-3.1 Location of Off-Street Parking Areas. The off-street parking areas required by this Article shall be located on the same lot or parcel of land that they are intended to serve; provided, however, that when the size or shape of land, or a structure presently existing on the parcel of land, prevents the establishment of such facilities on the same lot or parcel, or where good planning practice suggests otherwise they may be provided on a properly zoned lot or parcel within three hundred (300) feet of the premises they are to serve. However, before such parking facilities are approved, a written agreement thereto assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, and shall be filed with the Zoning Administrator. Nothing in this Article shall be construed to prevent collective provisions for or joint use of off-street parking areas. (1-12-93, Case #TA-92-03, Ord. No. 001-93)
- 18-6-3.2 Off-Street Parking Area Buffer. No off-street parking area required or provided shall be situated within ten (10) feet of any front or corner side property line nor within five (5) feet of any side or rear property line except as follows:
- a. In the Central Business District (B-1) and Residential Business (RB-1) zones, where off-street parking areas shall not be situated within four (4) feet of front and corner side property lines nor three (3) feet of side and rear property lines;
  - b. Along common property lines over which combined or shared off-street parking areas have been approved as per Section 18-6-3.1 of this Ordinance, where no buffer is required, and;
  - c. Along side or rear property lines abutting a residential zoning district where the abutting property is vacant or residentially used, in which case a fifteen (15) foot wide buffer area shall be provided. (1-12-93, Case TA-92-03, Ord. No. 001-93) (5-8-01, Case TA-01-01, Ord. No. 017-2001)
- 18-6-3.3 Private streets and common drives shall not encroach into required yards for Townhouse developments. (01-14-02, Case #TA-02-09, Ord. No. 002-2002)
- a. Deleted. (12-11-79, Ord. No. 031-79) (1-12-93, Case #TA-92-03, Ord. No. 001-93) (8-8-95, Case #TA-95-03, Ord. No. 032-95)
  - b. Deleted. (1-12-93, Case #TA-92-03, Ord. No. 001-93) (8-8-95, Case #TA-95-03, Ord. No. 032-95)
- 18-6-3.4 Delineating Parking Spaces. Whenever five (5) or more parking spaces are provided, such spaces shall be delineated by painted lines, curb stops, signs, or other acceptable means that will ensure the availability of the

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required number of parking spaces. (10-11-83, Case #83-06, Ord. No. 034-83)

- 18-6-3.5     Surfacing of Off-Street Parking Areas. Off-street parking areas shall be surfaced with a minimum of two (2) inches of compacted bituminous concrete on a suitable base except that the Commission may waive this requirement where another material is found to be more appropriate. Construction shall be to City specifications. (9-13-88, Case #TA-88-05, Ord. No. 035-88) (12-11-90, Case TA-90-06, Ord. No. 043-90)(1-12-93, Case #TA-92-03, Ord. No. 001-93)
- 18-6-3.6     Access and Site Planning Requirements. Ingress and egress to the property, and traffic lanes, parking spaces and loading and service areas on the premises shall form a convenient and well-organized system appropriate to the uses in the building. No off-street parking area shall be designed to permit backing out directly onto a public street. Entrances and exits shall be so arranged so as to minimize conflicts with traffic on public streets and to reduce traffic noises on portions of the lot where there might be adverse effects on residential uses on the property or on any uses on adjacent property. Inter-parcel connectors providing vehicular connections between adjacent parcels are encouraged. Where applicable, driveways shall be aligned with existing and proposed median crossings and driveways on the opposite street side. (10-12-93, Case TA-93-05, Ord. No. 034-94 amended and added 3.6a, 3.6b, and 3.6c)
- A.     Minimum driveway spacing standards shall apply to development on lots in the B-2, CM-1, M-1, M-2, and RO-1 Districts in order to provide safe and convenient access and efficient travel on City streets. Standards for minimum spacing between adjacent driveways as well as between driveways and street intersections shall be as follows:

Category II and III Streets (per Subdivision Ordinance Section 2-2-32 and 2-2-33);

<b>Posted Speed Limit</b>	<b>Minimum Required Spacing</b>
Less than 35 mph	125 feet
35 mph or more	175 feet

For all Category I Streets (per Subdivision Ordinance Section 2-2-31) minimum required spacing shall be 60 feet.

Distances shall be measured from the tangents to the curb returns of the driveways and/or intersecting street. Divided driveways (one-way in/out) shall be considered one driveway.

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- B. Exceptions to the above minimum driveway spacing standards may be allowed by the Commission upon recommendation of the Director of Public Works or his/her designee when based upon horizontal or vertical characteristics of the adjoining street. Exceptions may also be allowed by the Commission for existing lots where existing frontage does not provide adequate spacing to adjacent driveways or intersections. Such exceptions shall be considered in the following manner:
1. If frontage exists along more than one street and at least one frontage meets the spacing standards for that category of street, then no exceptions shall be considered for the other deficient street frontage(s).
  2. If no frontages provide adequate distance to meet the above driveway spacing standards then the applicant must first demonstrate that shared access from an adjacent lot with an existing driveway cannot be secured. A written request for shared access (at the existing driveway or at a mutually agreeable replacement location) must be sent by registered or certified mail to the immediately adjacent property owner(s). A separate driveway to the subject lot will be considered upon written rejection of shared access from the adjacent property owner(s) or the expiration of a thirty (30) day response period. If a separate driveway is allowed on the subject lot, the owner shall grant a vehicular access easement to allow for a future interparcel connector to at least one adjacent lot.
  3. If a lot has more than one frontage and no frontage provides adequate spacing for a driveway and if all adjacent property owners refuse shared access from their property per the procedures set forth in the preceding subsection, then one access shall be allowed along the lowest category street with the lowest speed limit or as specifically recommended otherwise by the Commission.
- C. Driveways, parking, loading, and service areas shall be so located, designed, constructed, maintained, and operated as to minimize the impact or adverse visual effects and noise on other portions of the property and on surrounding property, particularly residential property and where necessary, fences, walls, and/or vegetative screening shall be provided and maintained to further these purposes. Loading docks, service bays, and overhead doors shall not be oriented so as to be visible from a public street. The Administrator may waive this requirement after consultation with the Commission upon a showing that such orientation cannot be reasonably achieved in which case screening shall be provided to buffer

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street view according to Section 19-5-6.4b of this Ordinance. (1-12-93, Case #TA-92-03, Ord. No. 001-93)

18-6-3.7 Repealed. (9-9-97, TA-97-08, Ord. No. 022-97)

18-6-4 CALCULATING NUMBER OF OFF-STREET PARKING.

18-6-4.1 In calculating the number of such parking spaces, the following rules shall govern:

- a. Floor area shall mean the gross floor area of the specific use.
- b. When the units of measurements determining the number of required parking spaces result in the requirements of a fractional space, any fraction up to and including one-half ( $1/2$ ) shall be disregarded, and fractions over one-half ( $1/2$ ) shall require one (1) additional parking space.
- c. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
- d. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except as otherwise provided in this Article. (5-9-00, Case TA-99-07, Ord. No. 012-2000)
- e. Off-street parking facilities supplied to meet the needs of one (1) use shall not be considered as meeting the off-street parking needs of any other use, except that in the HW District, time-shared parking arrangements may be allowed for uses within buildings existing at the time of adoption of this Ordinance. Developments entailing ten (10) or fewer time-shared spaces entirely on-site may be approved with site plan approval from the Commission. All other time-shared parking arrangements shall require Conditional Use approval. All time-shared parking shall be in accordance with the following chart and provisions:

The minimum number of off-street parking spaces required under a time-shared arrangement shall be calculated by multiplying the number of spaces normally required for each land use per Section 18-6-5 of this Ordinance by the appropriate percentages corresponding to the land use and time of use figures below. All land uses on the site(s) considered for time-shared parking must be included in the calculation. The number of parking spaces required shall be determined by totaling the resulting numbers in

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each column. The column total that generates the highest number of spaces then becomes the minimum parking requirements.

Land use	Weekday		Weekend	
	Daytime	Evening	Daytime	Evening
	6am-6pm	6pm-6am	6am-6pm	6pm-6am
Office ( <b>not over 12hr</b> )	100%	10%	10%	5%
Retail ( <b>not over 12hr</b> )	70%	50%	100%	50%
Transient Lodging	60%	100%	75%	100%
Restaurant (not 24hr)	60%	90%	100%	100%
Auditorium, assembly hall, community center, theater, dance hall ( <b>without week-day daytime programs</b> )	<b>10%</b>	100%	<b>100%</b>	100%
Auditorium, assembly hall, community center, theater, dance hall ( <b>with week-day daytime programs</b> )	<b>40%</b>	100%	<b>100%</b>	100%
places of worship without weekday daytime programs	10%	70%	100%	100%
All other uses	100%	100%	100%	100%

Time-shared off-street parking may be provided off-site per Section 18-6-3.1 of this Ordinance. However, if any portion of the shared parking is provided off-site, the written agreement thereto assuring the retention for such purposes shall be recorded in the land records in addition to being filed with the Zoning Administrator.

Reserved parking spaces, spaces requiring special security access or on-site payment of fees by the user shall not be shared. Any change of use on the site(s) employing a time-shared parking arrangement shall require documentation to be submitted with the certificate of occupancy to ensure that the quantity of shared parking is sufficient per the above table. (5-9-00, Case TA-99-07, Ord. No. 012-2000)

### 18-6-5 AMOUNT OF OFF-STREET PARKING REQUIRED.

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18-6-5.1 The off-street parking required by this Article shall be provided and maintained on the basis of the following requirements specified in the following tables, except as otherwise provided in this Article: (9-12-89, Case TA-89-01, Ord. No. 022-89) (4-10-90 Case TA-89-14 Ord. No. 012-90)(7-8-97, Case TA-97-05, Ord. No. 016-97)

### USE TYPE

### REQUIRED OFF-STREET SPACES

#### RESIDENTIAL USES

Single family dwellings	1 for each dwelling unit
Two family, townhouses, mobile homes	2 for each dwelling unit
Multifamily dwellings greater than 700 feet from a transit stop along a publicly accessible sidewalk	2 for each dwelling unit
Multifamily dwellings less than 700 feet from a transit stop along a publicly accessible sidewalk	
Efficiency with no bedroom	1.5 for each dwelling unit
One bedroom unit	1.5 for each dwelling unit
Two bedroom unit	1.5 for each dwelling unit
Three or more bedroom unit	2 for each dwelling unit
Boarding, lodging, or room houses	1 for each residence unit, plus 2 spaces for employees
Adult Care Residence, Housing for the Elderly and Physically Handicapped, Convalescent Home, Nursing or Rest Home, Sanitarium	1 for each employee on the maximum shift plus 1 for each 3 beds
Dormitory, fraternity, or sorority	1 for each 2 beds

#### TRANSIENT LODGINGS:

Hotel and motel, Bed & Breakfast Inn	1 for each guest room,
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and Bed & Breakfast Homestay  
(12-13-94, TA-94-09,  
Ord. No. 028-94)

plus 1 employee space  
for each 10 guest rooms

Tourist home

1 for each guest room, plus  
2 for employees

### EDUCATION USES:

Kindergarten, day care center, nursery  
elementary, intermediate, or junior  
private or public (10-11-83, Case  
#83-06, Ord. No. 034-83)

1 for each teacher,  
employee or high,  
administrator, whether  
full or part-time if  
activities of personnel  
are conducted between  
8 am and 4 pm

High school or college or preparatory  
school, private or public

1 for each teacher,  
employee or administrator,  
whether full or part-time if  
activities of personnel  
are conducted between  
8 am and 4 pm plus 1 for  
every 10 students for  
maximum capacity.

### TRADE USES: BUSINESS

Retail space (unless other specified)

1 for each 200 square  
feet of floor area.

Automobile and Truck sales, rental and  
service centers, tire stores; and the like;  
(10-11-83, Case #83-06, Ord. No. 034-83)

1 for each service bay  
(bay areas not counted as  
parking spaces), plus  
1 for each 300 square feet  
of showroom or office area,  
plus 1 for each 1000 square  
feet of storage areas, plus  
space to accommodate all  
trucks and other vehicles  
used in connection therewith.  
No fewer than two 2 shall be  
provided.

Furniture, hardware, home furnishings  
and other similar establishments

1 for each 400 square feet  
of floor area.

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Gasoline filling station, convenience store	1 for each service bay plus 1 for each service vehicle, plus 1 for each 200 square feet of retail area.
Restaurant, night club, or similar establishment	1 for each 100 square feet of floor area, including outdoor food and beverage and entertainment area.
Wholesale, inventory, storage not otherwise classified	1 for each 1,000 square feet of floor area devoted to enclosed storage.
Mini storage and other similar establishments	1 for each 1,000 square feet of floor area for the first 10,000 square feet, plus 1 for each 2,000 square feet of floor area greater than 10,000 square feet.

### INDUSTRIAL USES:

Factories, laboratories, laundries, etc.	1 for each 1 1/2 employees on the maximum work shift, plus space to accommodate all trucks and other vehicles used in connection therewith.
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### CULTURAL, ENTERTAINMENT, AND RECREATIONAL USES:

Auditoriums, assembly halls, community centers (both public and private), dance halls, legitimate and motion picture theaters. (12-14-99, Case TA-99-06, Ord. No. 033-99)

Fixed seats	1 for each 5 seats based on seating capacity
Without fixed seats	1 for each 100 square feet of floor area.
Amphitheaters, sports arena, stadium or gymnasium	1 for each 5 seats or 10 feet of bench space
Art gallery, library, museum	1 for each 400 square feet of floor area.



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### SPORTS ACTIVITIES:

Bowling	4 for each alley
Indoor (swimming pools, skating rinks, recreational centers, and similar establishments)	1 for each 150 square feet of usable recreational or social floor area.
Outdoor (swimming pools, skating rinks, miniature golf, and similar establishments)	1 for each 200 square feet of usable and improved recreational area.
Golf Course	2 per hole
Outdoor court games (tennis, basketball, and similar establishments)	1 per 2 players based upon maximum capacity.

### OFFICE USES:

Business, general and governmental buildings, professional office buildings, but not including medical offices.	1 for each 300 square feet of floor area
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### MEDICAL USES:

Doctor's or dentist's office, clinic and outpatient clinic	1 for each 200 square feet of floor area (10-11-83, Case #83-06, Ord. No. 034-83)
Hospital	1 for each 3 beds, plus .6 spaces for each employee or staff member on the maximum working shift, plus .5 spaces for each doctor on the staff.
Veterinary hospital	1 for each 300 square feet of floor area

### SERVICE USES:

Tanning Salon	1 for each bed, plus 1 for each employee at maximum shift
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Manicure and pedicure establishment	2 for each station
Barber, beauty salon	2 for each chair
Laundry, Self-service	1 for each 2 cleaning or laundry machines
Dry cleaning establishment	1 for each 200 square feet of floor area
Funeral home, mortuary	1 for each 4 seats in chapels or parlors with fixed seats, or 1 for each 100 square feet of floor area for assembly rooms without fixed seats for services, plus 5 for employees
Other	1 for each 200 square feet of floor area.

### INSTITUTIONAL USES:

Churches, synagogues, temples, and other places of worship; and civic, fraternal, political, private, religious and social nonprofit organizations	1 for every 4 seats of the maximum seating capacity in the main place of assembly or 1 for each 100 square feet of usable floor area in the main place of assembly in places which do not have fixed seats.
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### 18-6-5.2 Parking of Trucks and Buses in Residential Districts.

18-6-5.2a	Trucks or buses of over one-half (1/2) ton shall not be parked in any required front yard in a residential district, except for purposes of making pickup or deliveries.
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## **GENERAL PROVISIONS**

- 18-6-6            **SPECIAL EXCEPTIONS FROM OFF-STREET PARKING AND LOADING REQUIREMENTS.** (Revised 9-14-82, Case #82-04, Ord. No. 016-82)
- 18-6-6.1        The following shall be exempt from the provision of off-street parking and loading spaces required by this Article.
- a.        Buildings located in the B-1 District and fronting on the following streets:
- Fairfax Lane between Cameron Street and Library Lane;
  - Piccadilly Street between East Lane and Washington Streets;
  - Amherst Street between Braddock Street and Washington Street;
  - Philpot Street;
  - Rouss Avenue;
  - Boscawen Street between East Lane and Washington Streets;
  - Sharp Street;
  - Wolfe Street between Indian Alley and the western boundary of the B-1 District;
  - Cork Street between East Lane and Braddock Street;
  - Kent Street between Fairfax Lane and Cork Street;
  - Cameron Street between Clifford Street and the southern boundary of 419 N. Cameron Street;
  - Loudoun Street between Baker Street and Clifford Street;
  - Indian Alley;
  - Braddock Street between the northern boundary of the B-1 District and Clifford Street;
  - Parish Lane;
  - Washington Street between Amherst Street and the southern boundary of the B-1 District.
- b.        Buildings, containing nonresidential uses, which are located three hundred (300) feet from a municipal parking lot of adequate capacity as determined by the Zoning Administrator.
- 18-6-6.2        Residential uses located in buildings fronting on the Loudoun Street Mall shall be exempt from the provisions of off-street parking and loading spaces required by this Article.
- 18-6-7            **AMOUNT OF OFF-STREET LOADING REQUIRED.**
- 18-6-7.1        There shall be provided on the premises used for the following purposes in any district at the time any building or structure is constructed, reconstructed, enlarged, extended, or structurally altered, spaces for

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off-street loading, except as otherwise provided in this Article in accordance with the following schedule:

- a. For each retail store, storage, warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use which has an aggregate floor area of:
  1. Over ten thousand (10,000) square feet but not over twenty-five thousand (25,000) square feet--one (1) space.
  2. Over twenty-five thousand (25,000) square feet but not over sixty thousand (60,000) square feet--two (2) spaces.
  3. Over sixty thousand (60,000) square feet but not over one hundred twenty thousand (120,000) square feet--three (3) spaces.
  4. Over one hundred twenty thousand (120,000) square feet but not over two hundred thousand (200,000) square feet--four (4) spaces.
  5. Over two hundred thousand (200,000) square feet but not over two hundred ninety thousand (290,000) square feet--five (5) spaces.
  6. For each additional ninety thousand (90,000) square feet or major fraction thereof--one (1) space.
- b. For each apartment building having over fifty (50) dwelling units - one (1) space.
- c. For each auditorium, museum, assembly hall, community center, hotel, office building, sports arena, stadium, gymnasium, hospital, sanitarium, or similar use which has an aggregate gross floor area of:
  1. Over ten thousand (10,000) square feet but not over forty thousand (40,000) square feet--one (1) space.
  2. Over forty thousand (40,000) square feet but not over one hundred thousand (100,000) square feet--two (2) spaces.  
(Revised 4-12-83, Case #83-01, Ord. No. 012-83)
  3. For each additional ninety thousand (90,000) square feet over one hundred thousand (100,000) square feet or major

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fraction thereof--one (1) space. (Revised 4-12-83, Case #83-01, Ord. No. 012-83)

- d. For any use not specifically mentioned in this section, the requirements for off-street loading, for a use which is so mentioned and to which the unmentioned use is similar, shall apply.
  1. Off-street loading facilities supplied to meet the needs of one (1) use shall not be considered as meeting the off-street loading needs of any other use.
  2. No area of a facility supplied to meet the required off-street parking facilities for use shall be utilized for or deemed to meet the requirements of this Article for off-street loading facilities.

18-6-8 AMOUNT OF STANDING SPACE REQUIRED. (1-12-93, Case #TA-92-03, Ord. No. 001-93)

18-6-8.1 The off-street standing spaces required by this Article may be stacked in one or more clearly delineated lanes which do not impede circulation on the site and shall be provided and maintained on the basis of the following requirements specified in the following table, except as otherwise provided in this Article:

<u>USE TYPE</u>	<u>REQUIRED SPACES</u>
Bank, Financial Institution	4 per first window or drive-up ATM plus 2 per each additional window or drive-up ATM
Car Wash-Self Serve	3 per bay
Car Wash-Automatic	8 per bay
Day Care, Nursery School	1 for each 8 children
Filling Station	1 space situated on each side of every dispenser island beginning at the end of the island and extending away from the island parallel to it

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Restaurant, Deli, Bakery	5 per pick-up window with at least 3 located before each order station
Service Establishment (NEC) (e.g. dry clean, photo, ticket office, courier)	2 per window or station

### 18-6-9 DEFERRAL OF REQUIRED PARKING FOR CERTAIN USES

For furniture stores and home furnishings establishments, construction of up to one-third of the number of required off-street parking spaces may be deferred on the condition that all required parking shall be fully designed and depicted on the approved site plan in compliance with all applicable standards. The applicant shall, each October, measure the average utilization of existing parking spaces for two consecutive Saturdays at noon and report the same to the Administrator within two weeks. The Administrator may measure utilization over a similar period at any time, however. If utilization exceeds eighty-five percent (85%) then the applicant shall make arrangements to construct a quantity of additional parking within a timeframe established by the Administrator. (Ord 017-99, 07-13-99, TA-99-01)

### 18-7 SPECIAL REGULATIONS PERTAINING TO THE LOUDOUN STREET MALL AND THE SECONDARY DOWNTOWN ASSESSMENT DISTRICT.

18-7-1 **USE OF SIDEWALKS.** The sidewalks in the Loudoun Street Mall area and the Secondary Downtown Assessment District may be used by proprietors, owners, or tenants of businesses abutting the sidewalks, but subject to the following limitations: (Ord. 004-82, 3-9-82)

18-7-1.1 Width. The width of the individual store front. (Ord. 004-82, 3-9-82)

18-7-1.2 Depth. For the Loudoun Street Mall, no sidewalk area closer than fifteen (15) feet to the center line of Mall shall be used, except that permission may be granted for the use of the sidewalk area no closer than ten (10) feet to the center line of the Mall if it is determined that the additional area is necessary for the proposed usage, and that the public health, safety, and welfare will not be adversely affected. For the Secondary Downtown Assessment District, no sidewalk area closer than five (5) feet to the curb shall be used. (Ord. 004-82, 3-9-82)

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- 18-7-1.3      Permits. Each abutting owner, tenant, or proprietor shall obtain a permit from the Oldtown Development Board, which shall be valid for a time determined by the Board. Plans to scale and a description of the proposed usage shall be submitted with each application. No permit shall be issued unless it is determined by the Oldtown Development Board that the design of the area and the proposed usage is compatible with the design and character of the downtown area. The Oldtown Development Board may consult with the Public Improvement Committee of the City Council before approving or denying the issuance of such permit, and may impose conditions upon the applicant which it deems necessary to protect the Mall surface, street furniture, and appurtenances. (Ord. 004-82, 3-9-82)
- 18-7-1.4      Usage. The permit heretofore described shall be issued only for the consumption and sale of food and beverages, display and sale of flowers, and sales for the benefit of civic groups, school sponsored organizations, and charitable institutions. Exceptions to these use restrictions may be approved by vote of the majority of the members of the Oldtown Development Board. Use of the sidewalk area shall comply with all local health ordinances. (Ord. 004-82, 3-9-82)
- 18-7-1.5      Area Maintenance. Each permit holder is responsible for keeping clean the area described in the plans, in accordance with local health ordinances. The area must be cleaned before the business is closed at the end of each business day. (Ord. 004-82, 3-9-82)
- 18-7-2      **STREET VENDORS.** The center area of the Loudoun Street Mall and sidewalks on the Loudoun Street Mall and in the Secondary Downtown Assessment District may be used by street vendors operating from carts or other portable vending apparatuses provided or authorized by the Oldtown Development Board. The center area of the Loudoun Street Mall is defined as that area up to and including fifteen (15) feet from the center line of the Mall, except in front of the Frederick County Courthouse, where the entire Mall area on the east side of the center line of the Mall shall be considered the center area. (Ord. 004-82, 3-9-82; 4-12-83, Case #83-02, Ord. No. 015-83).
- 18-7-2.1      Location. Street vendors shall operate only in the location or locations specified on their permit. (Ord. 004-82, 3-9-82)
- 18-7-2.2      Permits. Each street vendor shall obtain a permit from the Oldtown Development Board which shall be valid for a time to be determined by the Board. No permit shall be issued unless it is determined by the Oldtown Development Board that the design of the vending apparatus and its proposed use is compatible with the design and character of the Loudoun Street Mall. The Oldtown Development Board may consult with the Public Improvement Committee of the City Council before approving

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or denying the issuance of such permit, and may impose conditions upon the applicant which they deem necessary to protect the Mall surface, sidewalks, street furniture, and appurtenances thereto. The permit fee shall be determined by the Oldtown Development Board, and made payable to the City Treasurer. (Ord. 004-82, 3-9-82; 4-12-83, Case #83-02, Ord. No. 015-83)

- 18-7-2.3      Usage. The permit heretofore described shall be issued only for the vending of food and beverages, flowers, arts and crafts, handicrafts, and similar products and services. Exceptions to these use restrictions may be approved by the majority of the members of the Oldtown Development Board. Vendors shall comply with all local health ordinances. (Ord. 004-82, 3-9-82)
- 18-7-2.4      Area Maintenance. Each street vendor shall be responsible for keeping clean the area around his operation, in accordance with the local health ordinances. The area must be cleaned and all vending apparatus shall be removed at the end of each business day. (Ord. 004-82, 3-9-82)
- 18-7-3          MALL ACTIVITIES. Any person or organization seeking permission to sponsor any activities on the Loudoun Street Mall must apply at least fifteen (15) days in advance and obtain a permit from the Oldtown Development Board. However, the fifteen (15) day requirement may be waived for a good cause shown. No permit shall be issued unless it is determined by the Oldtown Development Board that such activity is appropriate to the character and design of the Loudoun Street Mall. The Oldtown Development Board may impose conditions upon the applicant which it deems necessary to protect the Mall surface, street furniture, and appurtenances thereto; and to minimize the adverse effects of the activity upon downtown businesses, residences, and shoppers. The Oldtown Development Board may also require a bond from a corporate surety or other suitable insurance to ensure that the Mall is returned to its original condition following the activity. (Ord. 004-82, 3-9-82)
- 18-7-4          PORTABLE SIGNS. The Oldtown Development Board may allow portable signs to be displayed in front of businesses on the Loudoun Street Mall and in the Secondary Downtown Assessment District. These signs shall not impede pedestrian traffic, and shall not exceed six (6) square feet in area. No permit shall be issued unless it is determined by the Oldtown Development Board that the design and location of the sign is compatible with the design and character of the downtown area. Permits for the display of signs must be obtained from the Oldtown Development Board,



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and shall be made payable to the City Treasurer. A Certificate of Appropriateness shall be obtained from the Board of Architectural Review, subject to the provisions of Article 14, before the portable sign can be displayed. (Ord. 004-82, 3-9-82)

- 18-7-5      **VENDING MACHINE.** No vending machine of any kind is permitted on the exterior of any buildings on the Loudoun Street Mall, unless it is approved by vote of the majority of the members of the Oldtown Development Board. Approval shall not be given unless it is determined by the Oldtown Development Board that the design of the vending machine and its proposed use is compatible with the design and character of the Loudoun Street Mall. (Ord. 004-82, 3-9-82)
- 18-7-6      **REVOCATION OF PERMITS.** The Oldtown Development Board may revoke any permit specified in Sections 18-6-1.3, 18-6-2.2, 18-7-3, 18-7-4, and 18-7-5, if it is determined that the conditions therein have not been met by the applicant. (Ord. 004-82, 3-9-82)
- 18-7-7      **DEFINITIONS.**
- 18-7-7.1      Loudoun Street Mall--All property abutting Loudoun Street between Piccadilly and Cork Streets. (Ord. 004-82, 3-9-82)
- 18-7-7.2      Secondary Downtown Assessment District - All property abutting the following streets; Piccadilly Street between Cameron and Braddock Streets; Braddock Street between Piccadilly and Cork Streets; Cork Street between Braddock and Cameron Streets; Cameron Street between Cork and Piccadilly Streets; Boscawen Street between Braddock and Cameron Streets; Rouss Avenue between Loudoun and Cameron Streets; Wolfe Street between Braddock Street and Indian Alley; Indian Alley between Piccadilly and Cork Streets. (Ord. 004-82, 3-9-82)
- 18-7-8      **OTHER REGULATIONS.** Uses covered by this Section shall be subject to all other applicable state and local regulations and ordinances. (Ord. 004-82, 3-9-82)

### **SECTION 18-8.      SIGNS.**

- 18-8-1      **INTENT.** The intent of this Article is to establish limitations on signs in order to insure that they are appropriate to the land, building, or use to which they are appurtenant and are adequate, but not excessive, for their intended purpose. Any widespread display of outdoor advertising is

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considered inappropriate to the character and sound development of the City, and it is intended by this Article that the streets and highways in the City shall not be made available for such display.

- 18-8-2      **PERMIT REQUIRED.** A sign permit shall be required before a sign is erected, altered, or relocated, except as otherwise provided herein.
- 18-8-2.1      Applications. Each application for such permit shall be accompanied by plans showing the area of the sign; the size, character, and design proposed; the method of illumination, method of fastening such sign; the name and address of the sign owner and of the sign erector. Fees for sign permits shall be in accordance with the schedule of fees for building permits as adopted by the City Council. A sign permit shall become null and void if the work for which the permit was issued has not been completed with a period of six (6) months after the date of issuance of the permit.
- 18-8-2.2      Permit Exceptions. A permit shall not be required for the following; but such signs shall be subject to any and all applicable provisions of this Ordinance.
- a.      Any sign four (4) square feet or less in area.
  - b.      Repainting without changing wording, composition, or color, or minor nonstructural repairs.
  - c.      Changing the wording or face of a sign that was erected in accordance with the provisions of this Article.
  - d.      Temporary signs and signs painted on or hung behind windows as permitted in all districts under Section 18-8-12. (10/09/01, Case No. TA-01-05)
- 18-8-3      **SIGNS PERMITTED IN THE RB-1 DISTRICT.** (7-10-90, Case # TA-90-04, Ord. No. 026-90)
- 18-8-3.1      Building mounted signs limited to one (1) sign for each building on the premises, with sign area limited to a maximum of ten (10) square feet per sign. (7-10-90, Case # TA-90-04, Ord. No. 026-90)
- 18-8-3.2      Directory signs, restricted to two (2) signs for each building on the premises with sign area limited to a maximum of two (2) square feet per sign. (7-10-90, Case # TA-90-04, Ord. No. 026-90)

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- 18-8-3.3 Freestanding signs limited to one (1) sign for each building on the premises, not exceeding twenty (20) square feet in area, and not extending higher than fifteen (15) feet. (7-10-90, Case # TA-90-04, Ord. No. 026-90)
- 18-8-3.4 Projecting signs not exceeding one (1) sign for each building on the premises with sign area limited to a maximum of six (6) square feet per sign. No such sign shall extend more than six (6) feet from the plane of the building to which it is attached not closer than two (2) feet from the nearest curb line. (7-10-90, Case # TA-90-04, Ord. No. 026-90)
- 18-8-4 SIGNS PERMITTED IN THE LR, MR, HR, HR-1, AND PUD DISTRICTS. (9-9-97, TA-97-07, Ord. No. 021-97, 3-8-05, TA-04-08)
- 18-8-4.1 One (1) sign not exceeding two (2) square feet in area for each dwelling unit. Such sign shall indicate only the name of the occupant and/or its location.
- 18-8-4.2 One (1) or more signs, not exceeding in the aggregate ten (10) square feet for the purpose of identifying a townhouse or multifamily dwelling building. (10-11-88 Case TA-88-07 Ord. No. 039-88)
- 18-8-4.3 Signs for permitted commercial uses in the HR and PUD Districts shall be governed by the regulations for the PC District. (3-8-05, TA-04-08)
- 18-8-4.4 One (1) or more signs for publicly owned playing fields which are fully enclosed by permanent structures or fences, including signs bearing a message not appurtenant to the use of the facility. Such signs shall be erected in a manner to create a uniform appearance from the exterior of the playing field, shall be oriented for primary viewing by persons within the playing field where they are erected and messages shall be displayed on the playing field side only. Such signs shall be erected only upon approval by the body exercising management of the facility and shall not be erected until commencement of the sport season for which they are intended and shall be removed immediately following completion of such sport season. (2-9-93, Case TA-92-04, Ord. No. 004-93) (4-12-94, Case TA-94-04, Ord. No. 012-94)
- 18-8-5 SIGNS PERMITTED IN THE B-1 AND PC DISTRICTS.
- 18-8-5.1 Building Mounted Signs in the B-1 District. Signage shall be allowed on a basis of one (1) square foot of building mounted sign area (which includes projecting sign area) for each linear foot of building frontage, but not exceeding fifty (50) square feet in area for buildings located closer than one hundred (100) feet from a street line, and not exceeding one hundred (100) square feet in area for buildings set back one hundred (100) feet or more from a street line. Where frontage is on more than one street,

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each frontage shall be considered a separate frontage. (10-11-88 Case TA-88-07 Ord. No. 039-88, 3-8-05, TA-04-08)

- a. Projecting Signs. Projecting signs and signs attached to the bottom of a marquee or roof overhang shall not project more than six (6) feet from the building front nor closer than two (2) feet from the nearest curb line. Projecting signs shall not exceed six (6) square feet in area. (10-11-88 Case TA-88-07 Ord. No. 039-88)

### 18-8-5.2 Freestanding Signs in the B-1 District.

- a. Freestanding signs shall not exceed twenty (20) square feet in area, and shall not extend higher than twenty (20) feet except as per Section 18-8-5.2b for commercial centers. No more than one (1) freestanding sign shall be permitted for each building. (10-11-88 Case TA-88-07 Ord. No. 039-88, 3-8-05, TA-04-08)
- b. For commercial centers, no more than one (1) freestanding sign shall be permitted, limited in area to fifty (50) square feet, and shall not extend higher than twenty (20) feet. Such sign shall indicate only the name of the commercial center and/or a business use or a combination of business use within the center. No other freestanding signs shall be permitted. No freestanding sign shall project beyond the property line.

### 18-8-5.3 Building Mounted Signs in the PC District. Signage shall be allowed on a basis of one (1) square foot of building mounted sign area (which includes projecting sign area) for each linear foot of building frontage, but not exceeding fifty (50) square feet. Where frontage is on more than one street, each frontage shall be considered a separate frontage. Signage shall not be internally illuminated.

- a. Projecting Signs. Projecting signs and signs attached to the bottom of a marquee or roof overhang shall not project more than six (6) feet from the building front. Projecting signs shall not exceed six (6) square feet in area. No sign shall project closer than two (2) feet to the property line.

### 18-8-5.4 Freestanding Signs in the PC District.

- a. Freestanding signs shall not exceed twenty-five (25) square feet in area, and shall not extend higher than eight (8) feet except per Section 18-8-5.4b for commercial centers. No more than one (1) freestanding sign shall be permitted for each building. No freestanding sign shall project closer than two (2) feet to the property line. Signage shall not be internally illuminated.

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- b. For commercial centers, no more than one (1) freestanding sign shall be permitted, limited in area to fifty (50) square feet, and shall not extend higher than eight (8) feet. Such sign shall indicate only the name of the commercial center and/or a business use or a combination of business use within the center. No other freestanding signs shall be permitted. No freestanding sign shall project closer than two (2) feet to the property line. Signage shall not be internally illuminated.

### 18-8-6 SIGNS PERMITTED IN THE B-2, CM-1, M-1, AND M-2 DISTRICTS.

18-8-6.1 Building Mounted Signs. Signage shall be allowed on the basis of one and one-half (1 1/2) square feet of building mounted sign area for each linear foot of building frontage, but not exceeding two hundred (200) square feet in area. Where frontage is on more than one (1) street, each frontage shall be considered a separate frontage. (10-11-88 Case TA-88-07 Ord. No. 039-88)

18-8-6.2 Freestanding Signs. Freestanding signs permitted under this section shall be situated at least one hundred (100) feet apart from each other within the limits of the development. (11-12-96, Case TA-95-09, Ord. No. 030-96)

- a. Freestanding signage shall not exceed seventy-five (75) square feet, and shall not extend higher than twenty-five (25) feet. No more than one (1) freestanding signs shall be permitted for each main building on the premises, except as per Section 18-8-6.2b through 8-8-6.4 of this Ordinance. (10-11-88 Case TA-88-07 Ord. No. 039-88, 11-12-96, Case TA-95-09, Ord. No. 030-96)
- b. For commercial centers and buildings housing more than three (3) tenants, freestanding signage shall be permitted on the following basis. (12-8-87, Case #TA-87-08, Ord. No. 043-87, 11-12-96, Case TA-95-09, Ord. No. 030-96)
  - 1. One sign for every one thousand, two hundred (1200) linear feet of public street frontage. The first such sign shall not exceed one hundred fifty (150) square feet in area nor thirty (30) feet in height, and any additional such signs shall not each exceed seventy-five (75) square feet in area nor twenty-five (25) feet in height; OR,
  - 2. One sign for each public street frontage. The first such sign shall not each exceed seventy five (75) square feet in area nor twenty-five (25) feet in height, and any additional

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such signs shall not each exceed fifty (50) square feet in area nor twenty (20) feet in height; OR,

3. One sign for each Main Building within the limits of the development. Such sign(s) shall not each exceed twenty-five (25) square feet in area nor six (6) feet in height. For Commercial Centers with at least five hundred (500) linear feet of public street frontage, one sign not exceeding fifty (50) square feet in area nor twenty-five (25) feet in height shall be permitted in addition to the low rise signage.

- c. For regional shopping centers with a floor area of more than five hundred thousand (500,000) square feet, one freestanding sign shall be permitted for each entrance into the shopping center from a public street. Such signs shall indicate only the name of the shopping center and/or business uses within the center. One sign may be two hundred (200) square feet in area, and shall not extend higher than thirty (30) feet. All other freestanding signs shall be limited in area to seventy-five (75) square feet, and shall not extend higher than twenty-five (25) feet. No other freestanding signs shall be permitted, except that an individual enterprise with a direct access to a highway defined as a thoroughfare street in the Comprehensive Plan shall be permitted one (1) freestanding sign not to exceed seventy-five (75) square feet in area, and limited in height to twenty-five (25) feet. In addition, when a regional shopping center as defined above is adjacent to the Interstate Route 81 right-of-way, one (1) sign not exceeding three hundred (300) square feet in area, not extending higher than seventy-five (75) feet, and not projecting beyond the property line, shall be allowed.

18-8-6.3 No sign shall project closer than five (5) feet to the property line.  
(11-12-96, Case TA-95-09, Ord. No. 030-96)

18-8-6.4 For commercial uses located not more than one thousand (1000) feet from the center line of the Interstate Route 81 right-of-way where it intersects with the center line of the right-of-way of any highway that provides entrances and exits to the Interstate Highway, one (1) permitted freestanding sign in Section 18-8-6.2a may be replaced with one (1) high rise sign, not exceeding two hundred (200) square feet in area and not extending higher than seventy-five (75) feet.

18-8-6.5 For commercial centers with at least 800 linear feet of frontage on the right-of-way of Interstate 81 that are in the CM-1 District, except regional shopping centers as provided for in Section 18-8-6.2c, one (1) permitted freestanding sign in Section 18-8-6.2b may be replaced with one (1) freestanding sign not exceeding 200 square feet in area nor 40 feet height.

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Such sign shall be no further than 100 feet from the Interstate right-of-way line; shall be no closer than 300 feet to a freestanding sign on an adjacent commercial center; and shall be at least 1,000 feet from residentially zoned land. (04/14/98, TA-97-12, Ord. No. 008-98)

### 18-8-7 SIGNS PERMITTED IN THE RO-1 DISTRICTS.

18-8-7.1 Freestanding Signage, limited to one (1) for each building on the premises, and limited to a maximum sign area of twenty-five (25) square feet. Such signs shall not extend higher than six (6) feet and shall not be internally illuminated. (5/8/90 Case TA-90-01, Ord. No. 016-90)

18-8-7.2 Building Mounted Signs, limited to one (1) for each building on the premises, with sign area limited to a maximum of ten (10) square feet.

18-8-7.3 Directory Signs, restricted to two (2) signs for any building. Such signs shall not exceed two (2) square feet per person or office listed on the sign.

### 18-8-8 SIGNS PERMITTED IN HS DISTRICT. (6-12-90, Case TA-89-11, Ord. No. 018-90)

18-8-8.1 Signs for residential uses are regulated by Section 18-8-4.

18-8-8.2 Wall or projecting signs identifying specific entrances to a principal health services building. Such signs shall not exceed ten (10) square feet in area each.

### 18-8-9 SIGNS PERMITTED IN THE MC DISTRICT

18-8-9.1 Building Mounted Signs. Signage shall be allowed on the basis of one (1) square foot of building mounted sign area (which includes projecting sign area) for each linear foot of building frontage, but not exceeding one hundred (100) square feet in area. Where frontage is on more than one street, each frontage shall be considered separate frontage. (10-11-88 Case TA-88-07 Ord. No. 039-88)

### 18-8-9.2 Freestanding Signs.

- a. Freestanding signs, unless otherwise specified, shall not exceed twenty-five (25) square feet in area, and shall not extend higher than twenty (20) feet. No more than one (1) freestanding sign shall be permitted for each building. No free standing sign shall project beyond the property line.

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- b. No more than one (1) freestanding sign shall be permitted for a general hospital, limited in area to fifty (50) square feet, and shall not extend higher than twenty-five (25) feet. No freestanding sign shall project beyond the property line.
- c. For the purpose of identifying a medical center in which a general hospital is located, two (2) freestanding signs shall be permitted, limited in area to one hundred fifty (150) feet and shall not extend higher than twenty-five (25) feet. Such sign shall indicate only the name of the medical center and/or a general hospital within the center. No freestanding sign shall project beyond the property line. (8-11-87 Case TA 87-04 Ord. No. 025-87)

18-8-9.3 Repealed. (01/09/97, Case TA-97-11, Ord. No. 034-097)

18-8-9.3a Repealed. (01/09/97, Case TA-97-11, Ord. No. 034-097)

18-8-9.4 Navigational Signs.

- a. Navigational signs for the purpose of identifying a heliport shall be exempt from regulation.

18-8-10 SIGNS PERMITTED IN THE HE-1 AND EIP DISTRICTS. (9-9-97, TA-97-07, Ord. No. 021-97)

18-8-10.1 Signs identifying an educational, institutional, or public/semi-public facility, limited to one (1) sign per entrance to said facility. Such signs shall not exceed fifty (50) square feet in area each. (9-9-97, TA-97-07, Ord. No. 021-97)

18-8-10.2 Repealed. (01/09/97, Case TA-97-11, Ord. No. 034-097)

18-8-10.3 Wall Mounted Directory Signs. Such signs shall not exceed two (2) square feet in area per person or office listed on the sign.

18-8-11 SIGNS PERMITTED IN THE HW DISTRICT. No permanent sign shall be erected or altered in the Historic Winchester District until a Certificate of Appropriateness has been issued by the Board of Architectural Review. These signs are subject to the provision of Article 14 and design guidelines as may be adopted by the Board of Architectural Review.



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Signage shall not be internally illuminated (9/11/2001, Case TA-01-02, Ord. No. 029-2001, 3-8-08, TA-04-08)

18-8-12      SIGNS PERMITTED IN ALL DISTRICTS. The following signs shall be permitted in all districts. Unless otherwise indicated, Temporary Signs and signs painted on or hung behind windows shall not require a sign permit. The area of any sign shall not be included in computing the aggregate sign areas specified for individual districts. (9/11/2001, Case TA-01-02, Ord. No. 029-2001)

18-8-12.1      Temporary signs, which shall be non-illuminated and limited to the following types:

- a.      Construction Signs, which identify the architects, engineers, contractors and other individuals or firms involved with the construction.
- b.      Real Estate Signs, advertising the sale, rental, or lease of the premises, or part of the premises on which the signs are displayed.
- c.      Political Campaign Signs, announcing the candidates seeking public political office and other data pertinent thereto. These signs shall be confined within private property and removed within fourteen (14) days after the event for which they were made.
- d.      Street Banners, advertising a public entertainment or event, if specifically approved by the City Council and only for locations designated by the City Council, during and for fourteen (14) days before and after the event for which they were made.
- e.      Signs advertising only the name, time and place of any bona fide fair, carnival, festival, bazaar, horse show, or similar event, when conducted by a public agency or for the benefit of any civic, fraternal, religious, or charitable cause: provided that all such signs shall be removed within five (5) days after the last day of the event to which they pertain.
- f.      Grand opening signs shall be permitted in B-1, B-2, M-1, M-2, CM-1 and PC districts, provided that such sign or signs shall not be displayed more than ten (10) days.
- g.      Signs advertising special sales shall be permitted in B-1, B-2, M-1, M-2, CM-1, and PC districts, provided that such sign or signs shall not be displayed more than ten (10) days.

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- h. Portable price or advertising signs shall be permitted in the B-1, B-2, CM-1, M-1, and M-2 districts, not exceeding an area of twenty (20) square feet, and limited to one (1) for each street the property fronts upon. Such signs shall not project beyond the property line. Signs located in the Historic District shall not be required to be approved by the Board of Architectural Review. Such signs, that are larger than four (4) square feet and have changeable message panels, shall not be displayed more than fourteen (14) days. A sign permit shall be required before such signs with changeable message panels are placed on a property. Once such sign permit has been approved, a second permit may be issued for an additional fourteen (14) days. Thirty (30) days following the termination of a second permit, subsequent permit(s) for such signs may be issued, in accordance with the above time limits. The provisions of this Section shall apply to all such signs effective July 1, 1988. (3-8-88, TA-87-10, Ord. No. 015-88)
- i. Signs advertising storage of materials and supplies or display of merchandise for sale or rent shall be permitted but shall not be visible from off-site (10-17-95, Case TA-95-04, Ord. No. 053-95)

### 18-8-12.2 Permanent Signs.

- a. Directional Signs, as defined, provided each sign does not exceed ten (10) square feet in area nor four (4) feet in height. No more than two (2) signs shall be permitted within one hundred (100) feet of each other within the limits of the development except signs required by a public authority for recognized traffic management needs. For commercial centers greater than fifty thousand square feet in floor area and Medical Center (MC) and Higher Education (HE-1) District uses, additional directional freestanding signs not exceeding thirty (30) square feet in area and six (6) feet in height shall be permitted within off-street parking areas when such signs provide directional assistance for multiple destinations. A sign permit shall be required. Such additional signs shall be limited to a single unifying logo representative of the development and text on a solid color background and shall be oriented so as to limit primary viewing to persons already on site and not to persons traveling on public and/or private streets provided in lieu of public streets. (01/09/97, Case TA-97-11, Ord. No. 034-097)(06/09/98, TA-98-02, Ord. No 016-98)
- b. Wall or freestanding signs, not exceeding a total of fifty (50) square feet in area nor eight (8) feet in height and not internally illuminated, for the identification of a subdivision or Planned

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Development or one freestanding sign not exceeding fifty (50) square feet in area nor eight (8) feet in height and not internally illuminated for the identification of an apartment complex containing at least 50 apartment units and covering at least three (3) acres of ground, if located at an entrance to said subdivision, Planned Development or apartment complex. If a said apartment complex fronts upon more than one public street, then one additional freestanding identification sign not exceeding twenty-five (25) square feet in area shall be allowed at a separate entrance. (3-11-97, Case TA-96-08, Ord. No. 007-97), (9/11/2001, Case No. TA-01-02, Ord. No. 029-2001)

- c. Names of buildings, dates of erection, monumental citations, commemorative tablets, and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
- d. Institutional signs setting forth the name or any simple announcement for any public, charitable, educational, or religious institute, located entirely within the premises of that institution. Freestanding signs shall not exceed twenty-five (25) square feet in area.
- e. Signs painted on or hung behind windows.
- f. Menu boards shall be permitted in the B-1, B-2, CM-1, M-1, and PC districts for drive-through establishments provided such signs shall be designed and oriented so as to limit primary viewing to persons using drive through facilities and menus shall be displayed only on the drive through standing space side. (03-08-94, Case TA-93-09, Ord. No. 005-94)
- g. Community Signs, after a finding that such signs are consistent with the provisions of Sections 18-2-1.1a and b of this Ordinance. The intent of this section is to permit a limited number of signs at the entryways to the community where multiple noncommercial messages are presented in a planned, orderly manner. Such signs shall not exceed 15 feet in height nor 150 square feet in sign area. No signs permitted under this section shall be more than 1,500 feet from the nearest exit ramp and no two signs shall be within 500 feet of each other. A sign permit shall be required. (10-08-96, Case TA-96-06, Ord. No. 026-96)

18-8-13      **SIGNS PROHIBITED IN ALL DISTRICTS.** The following types of signs are prohibited in all districts:

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- 18-8-13.1 Any sign that obscures a sign display by a public authority for the purpose of giving traffic instructions or directions or other public information.
- 18-8-13.2 Any sign within the triangular area at the street corner of a corner lot described in Section 18-12 of this Ordinance.
- 18-8-13.3 Any sign that consists of strings of light bulbs.
- 18-8-13.4 Any sign, other than pennants or banners, of which all or any part is in motion by any means, including fluttering, rotating, or other moving signs set in motion by movement of the atmosphere. This shall not apply to the hand of a clock or a weather vane.
- 18-8-13.5 Any sign, except official notices and advertisements, which is nailed, tacked, posted, or in any other manner attached to any utility pole or structure for supporting wire, cable, or pipe, or to any tree on any street or sidewalk or to public property of any description.
- 18-8-13.6 Outdoor advertising signs.
- 18-8-13.7 Moored balloons or other floating signs that are tethered to the ground.
- 18-8-13.8 Any sign with a minimum clearance of less than eight (8) feet above a walkway or sidewalk or less than fifteen (15) feet above a driveway or alley. (7-10-90, Case # TA-90-04, Ord. No. 026-90)
- 18-8-14 ILLUMINATION.
- 18-8-14.1 The light from any illuminated sign shall not cause direct glare into or upon any building or property owner other than the building or property to which the sign may be related.
- 18-8-14.2 No sign shall display flashing or intermittent lights, or other lights of changing degrees of intensity, brightness or color, except a sign indicating time or temperature, with changes alternating on not less than five (5) second cycle when such time or temperature sign does not constitute a public hazard, in the judgment of the Zoning Administrator.
- 18-8-14.3 Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- 18-8-15 NONCONFORMING SIGNS.

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- 18-8-15.1 Signs, other than outdoor advertising signs, which do not conform to the regulations and restriction prescribed for the zoning district in which they are situated, but which were erected in accordance with all applicable regulations in effect at the time of their erection may remain erected only so long as the then existing use which they advertise remains.
- 18-8-15.2 No nonconforming sign shall be altered except in conformity with the provisions of this Article.
- 18-8-15.3 Permanent nonconforming freestanding signage, other than outdoor advertising signs, may be altered if said alteration reduces the total permanent nonconforming freestanding sign area by at least fifteen (15) percent. In cases involving commercial centers or sites with more than one permanent nonconforming freestanding sign, the reduction in area may be achieved either by: a) reducing the square footage of the individual altered sign by at least fifteen (15) percent: or, b) reducing the aggregate square footage of all permanent nonconforming freestanding signage by at least fifteen (15) percent.
- 18-8-15.4 If a nonconforming sign is damaged to an extent greater than fifty (50) percent of the cost of reconstructing the sign to its condition before the occurrence, it shall not be rebuilt.(10/9/2001, Case No. TA-01-05)
- 18-8-16 ABANDONED SIGNS. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. If the owner or lessee fails to remove it, the Zoning Administrator shall give the owner thirty (30) days' notice in writing to remove said sign.
- 18-8-17 DILAPIDATED SIGNS. All signs shall be maintained in good working condition so as to present a neat and orderly appearance. The Zoning Administrator may cause to be removed any sign which shows gross neglect or which becomes dilapidated.
- 18-8-18 DEFINITIONS.
- 18-8-18.1 Area of Sign. The entire area within a circle, triangle, parallelogram, or trapezoids including the extreme limits of writing, reproduction, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On double-faced signs, only one (1) display face shall be measured in computing total sign area where sign faces are parallel and are at no point more than two (2) feet from one another.

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- 18-8-18.2 Maintenance. The replacing or repairing of a part or portion of a sign made unusable by ordinary wear, tear, or damage beyond the control of the owner or the reprinting of existing copy without changing the wording.
- 18-8-18.3 Outdoor Advertising Sign. A freestanding or building mounted sign bearing a message which is not appurtenant to the use of the property where the sign is located, and which does not identify the place of business where the sign is located as the purveyor of merchandise or services upon the sign, except signs permitted off-premises for Commercial Centers, as defined and except for directional signs per Section 18-8-18.11. Such signs may also be referred to as billboards or poster panels. (01/09/97, Case TA-97-11, Ord. No. 034-097)
- 18-8-18.4 Projecting Signs. A sign attached to and perpendicular to the building wall.
- 18-8-18.5 Sign. Any structure, display device, or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and painted, printed, constructed, and displayed in any manner whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem, or insignia of a government, school, or religious group when displayed for official purposes.
- 18-8-18.6 Temporary Sign. A banner, pennant, poster, or advertising display constructed of cloth, plastic sheet, cardboard, wallboard, or other like materials, intended to be displayed for a limited period of time, and not permanently attached to a building or the ground.
- 18-8-18.7 Wall Sign. A sign affixed directly to or painted on or otherwise inscribed on an exterior wall or parapet and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.
- 18-8-18.8 Roof Line. Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. Where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on which the sign is located. (03-08-94, Case TA-93-09, Ord. No. 005-94)
- 18-8-18.9 Roof Sign. A sign erected on the roof of a building. Roof signs shall not project above the roof line. (03-08-94, Case TA-93-09, Ord. No. 005-94)
- 18-8-18.10 Community Sign. A sign identifying the community and/or recognized historic and/or cultural resources therein provided such signs are situated within or visible from major tourism corridors directly connecting from limited access highways. Signs may include uniformly sized and shaped

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emblems, logos, insignias or simple nameplates of any civic, fraternal, charitable or religious organization based in the community. (10-08-96, Case TA-96-06, Ord. No. 026-96)

- 18-8-18.11 Directional Sign. A wall or freestanding sign in or primarily oriented toward a parking lot to identify entrances, exits, and divisions of the lot into sections, and to control vehicular and pedestrian traffic in the lot. In cases where a property owner agrees to close an existing driveway connecting directly to a street to permit shared access per Section 18-6-3.6 of this Ordinance or where an off-premises entrance from the public street in lieu of a direct connection is recommended by a public authority, one (1) off- premises directional sign bearing the name or simple logo of the commercial activity shall be permitted at the connection to the street. (01/09/97, Case TA-97-11, Ord. No. 034-097)

### SECTION 18-9.

- 18-9-1 YARDS AND OPEN SPACE. No yard or other space provided about any building for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or other open space for any other building, and no yard or other open space on one (1) lot shall be considered as providing a yard or open space on any other lot.
- 18-9-2 YARD ENCROACHMENTS. Every part of every required yard shall be open and unobstructed from the ground to the sky except as hereinafter provided or as otherwise permitted in this Ordinance:
- 18-9-2.1 Unenclosed porches, decks, or terraces not over three (3) feet above the ground except for railings and roof structures, may extend five (5) feet into a required front yard or corner side yard, ten (10) feet into a required rear yard, and three (3) feet into a required non-corner side yard, provided that any such structure having a roof shall not extend into any required yard area to a greater distance than one-half (1/2) the required yard depth or width. (8-16-02, Case TA02-02, Ord. No. 010-2002)
- 18-9-2.2 An open, unenclosed paved terrace may project into the required front yard for a distance not exceeding ten (10) feet.

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- 18-9-2.3 Chimneys, fireplaces, or pilasters may not project over two (2) feet into a required yard.
- 18-9-2.4 Handicap accessibility ramps and steps and staircases without roofs may extend into required yards as follows: Any portions with not more than nine (9) feet of reveal between any step or point on a ramp and the closest point of grade surrounding it may extend four (4) feet into a required front, corner side or rear yard; Any portions with not more than five (5) feet of reveal between any step or point on a ramp and the closest point of grade surrounding it may extend eight (8) feet into a required front, corner side or rear yard and five (5) feet into a required non-corner side yard provided they do not extend into any required yard to a greater distance than one-half (1/2) the required yard depth or width. Any portions with less than two (2) feet of reveal between any point on the steps or point on a ramp and the closest point of grade surrounding it may extend into any required yard. (8-16-02, Case TA02-02, Ord. No. 010-2002), (1-13-04, Case TA03-04, Ord. No.002-2004)
- 18-9-2.5 An unenclosed carport, attached to a dwelling, may extend into any required side yard a distance of not more than five (5) feet but not nearer to any side lot line than a distance of five (5) feet.
- 18-9-2.6 Trash and recycling enclosures may extend into any required rear and side yard but not nearer to any rear or side lot line than a distance of three (3) feet, except for enclosures serving nonresidential uses when adjacent to a residentially zoned lot, in which case a minimum of fifteen (15) feet of separation shall be provided. (1-9-01, Case TA-00-10, Ord. No. 003-2001)
- 18-9-2.7 Utility boxes, transformers and similar structures which do not create noise, odor, glare, vibration, light, dust or excessive heat and which are less than six (6) feet in height, may be installed in any required rear or side yard. (1-9-01, Case TA-00-10, Ord. No. 003-2001), (8-16-02, Case TA02-02, Ord. No. 009-2002)
- 18-9-2.8 Fences and non-retaining walls up to eight (8) feet in height above surrounding grade, may be installed in any required rear or non-corner side yard. Fences up to four (4) feet in height above surrounding grade which are at least twenty-five (25) percent open (e.g. picket, chain link, rail, etc.) and non-retaining walls up to three (3) feet in height above surrounding grade may be installed in any required front or corner side yard except as per Section 18-12 of this Ordinance. On double-frontage residential lots, fences up to six (6) feet in height above surrounding grade may be installed in the one required front yard that is situated between a public street and the rear elevation of the main building on the lot provided that they are set back from the public right of way at least three



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(3) feet plus one (1) additional foot of setback for every one (1) additional foot of height above four (4) feet.

(8-16-02, Case TA02-01, Ord. No. 009-2002)

- 18-9-2.9 Retaining walls up to eight (8) feet in height above surrounding grade may be installed in any required rear or non-corner side yard, provided that any retaining wall over three (3) feet in height shall include a railing, fence or hedge at least thirty-six (36) inches high along the top to protect persons from injury due to falling. Retaining walls up to three (3) feet in height above surrounding grade may be installed in any required front or corner side yard except as per Section 18-12 of this Ordinance.  
(8-16-02, Case TA-02-01, Ord. No. 009-2002)

### **SECTION 18-10. ACCESSORY USES AND STRUCTURES.**

- 18-10-1 In all districts, accessory buildings or structures shall not be located in a front or side yard, unless specifically provided for elsewhere by the provisions of this Ordinance. (5/8/90 Case TA-90-01, Ord. No. 016-90)
- 18-10-2 Accessory structures shall not exceed twelve (12) feet in height in any residential district except that accessory structures which meet the side and rear yard requirements for the district shall not exceed the height of the existing main building or the height limit for the residential district in which the structures are located, whichever is less. (3-8-94, TA-94-02, Ord. No 94-02)
- 18-10-3 Fences and walls (both retaining and non-retaining) up to five (5) feet in height above surrounding grade may be permitted in non-required front and corner side yards except as per Section 18-12 of this Ordinance and provided that any retaining wall over three (3) feet in height shall include a railing, fence or hedge at least thirty-six (36) inches high along the top to protect persons from injury due to falling. (8-16-02, Case TA-02-01, Ord. No. 009-2002)
- 18-10-4 No setback from side or rear lot lines shall be required. (10-11-83, Case 83-06, Ord. No. 034-83)
- 18-10-5 Steps and staircases shall be permitted in any non-required yard.

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(8-16-02, Case TA-02-02, Ord. No. 009-2002)

- 18-10-6      Accessory buildings permitted in rear yards of residential districts shall not occupy a combined total area of more than thirty (30) percent of said yard. (5/8/90 Case TA-90-01, Ord. No. 016-90)
- 18-10-7      No accessory building shall be constructed upon a lot until the construction of a main building has actually commenced; and no accessory building shall be used unless the main building on a lot is completed and used, except that in the LR, MR, and HR districts one accessory building may be located on a parcel on which no main building exists if such parcel is immediately adjacent to a parcel on which a single family dwelling is located and both parcels are under common ownership. Such accessory building shall be for a use accessory to the main building and shall be located in the rear yard. The rear yard for the parcel without a main building is defined as being equal to the rear yard for the immediately adjacent commonly owned parcel on which a main building is located. In no case may the accessory building encroach into the front setback or corner side yard for the parcel on which the accessory building is located. (5/8/90 Case TA-90-01, Ord. No. 016-90)

**SECTION 18-11.      DELETED. (10-11-83, CASE #83-06, ORD. NO. 034-83)**

**SECTION 18-12.      VISUAL OBSTRUCTION.**

- 18-12-1      On a corner lot in any district other than the Central Business District, B-1, no obstructions between two and one-half (2 1/2) feet and eight (8) feet above the street grade level shall be maintained in the area bounded by the curb line, or edge of pavement where there are no curbs adjacent to such corner lots, and a line joining points along said lines twenty-five (25) feet from the point of intersection. This section shall not apply to light poles, utility poles, or sign poles. (6-12-90 Case TA-89-11, Ord. No. 018-90), (8-16-02, Case TA02-01, Ord. No. 009-2002)

**SECTION 18-13.      DRAINAGE. (8-13-85, CASE #85-02, ORD. NO. 011-85)**

- 18-13-1      No building shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Factors to be considered in determining substantial change shall include the recommendations of the Winchester Storm Drainage Study and adopted storm drainage standards of the Virginia Department of Highways and Transportation. In his administration of this requirement the Zoning Administrator shall refer any application submitted to him to the Public Works Director for a determination in the matter.

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- 18-13-2 Development within a drainage shed involving a change of land use is normally associated with an increase in impervious area resulting in a greater quantity as well as a more rapid and frequent concentration of stormwater runoff. The construction of storm drainage improvements is required along waterways as development progresses in order to alleviate flood damage and arrest deterioration of existing drainageways. The extent and character of such improvements shall be designed to provide for the adequate correction of deficiencies. Improvements shall extend downstream to a point where damages to existing properties from additional runoff will be minimized. The purpose and intent is to require a subdivider or developer of land to construct needed storm drainage facilities or to pay his pro rata share of the cost of providing reasonable and necessary drainage facilities located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of his subdivision or development.
- 18-13-3 Where the developer requests that he may be permitted to contribute his share of the cost toward the correction of off-site storm drainage deficiencies in lieu of constructing the required improvements, the City may accept such contribution towards their correction or the City may require that the developer construct the improvement required to make such corrections.
- 18-13-4 Where a developer is permitted to either construct or provide the funds for the construction of more than his pro rata share of the downstream off-site drainage improvements so that he may proceed with the improvement of his land without damaging the properties of others, the City will endeavor to collect, on a pro rata basis, any funds expended beyond his proportionate share from other properties within the drainage shed served by such drainage improvements when such properties are developed within a period of ten years from the date that the drainage improvements are financed or constructed. These funds shall be returned to the initial developer or his assigns only if collected by the City from the subsequent developers. The initial developer has right of action to recover from a subsequent developer his pro rata cost for his use of the facilities installed by the initial developer.
- 18-13-5 **CALCULATION OF PRO RATA COST.**
- 18-13-5.1 When directed to do so by the City Manager, the Director of Public Works or his designee shall study and compute the total estimated cost of ultimate drainage facilities required to serve a drainage shed when and if such drainage shed is fully developed in accordance with the adopted

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Comprehensive Plan and Zoning Ordinance for the City. The computation of estimated costs shall include any engineering studies for the drainage. The total estimated cost of storm drainage construction, and easement and flood plain easement acquisition costs where necessary, shall also be included. When this total cost is computed, it shall be updated every six months by applying the Engineering New-Record cost index factor to the construction costs. The above study with its attendant cost figures shall constitute the general drainage improvement program for the affected drainage shed.

- 18-13-5.2 When a general drainage improvement program has been established, a pro rata share of the total cost of the program shall be determined as follows:
1. The estimated increased volume of storm water runoff for the drainage shed, when fully developed in accordance with the adopted Comprehensive Plan and Ordinance, shall be computed.
  2. The increased volume of storm water runoff caused by a subdivision or other development shall be computed.
  3. The ratio of the volume of storm water runoff caused by a subdivision or other development to the estimated total volume of storm water runoff for the drainage shed, expressed as a percentage shall be applied to the total cost of the drainage improvement program for the drainage shed. The resultant figure shall be the pro rata share for the subdivision or development.
- 18-13-6 PAYMENT OF PRO RATA SHARE. The payment of the pro rata share shall be due prior to the approval of the plans for a subdivision. Where a subdivision has been previously approved or where the subdivision of land does not occur, the payment of the pro rata share shall be prior to the issuance of any building permits.

### **SECTION 18-14. ERECTION OF BUILDINGS.**

Every building hereafter erected shall be located on a lot as herein defined, said lot having its principal frontage on a public street of record, except as otherwise permitted in this Ordinance for townhouses and planned development.

### **SECTION 18-15. OBSTRUCTION OF PUBLIC RIGHT-OF-WAY.**

No building, structure, sign, merchandise, or other obstruction shall be located or conducted on any public right-of-way.

### **SECTION 18-16. NUISANCES.**

## GENERAL PROVISIONS

Nothing shall be allowable on the premises in any district, provided for in this Ordinance, that shall be in any way offensive or noxious by reason of the emission of odors, fumes, dust, smoke, light, vibration, or noise. Nor shall anything be constructed or maintained that would in any way constitute an eyesore or nuisance to adjacent property owners or residents or to the community.

### **SECTION 18-17     MOBILE HOME, MOBILE OFFICE, MOBILE SALES UNIT, AND MOBILE STORAGE UNIT TEMPORARY PERMITS (hereinafter known collectively as mobile units) (01/13/98,TA-97-10, Ord. No. 001-98 )**

- 18-17-1     No mobile units shall be located within the corporate limits of the City unless specifically permitted by this Ordinance. However, Section 18-17 shall not apply to mobile homes or mobile offices temporarily used at construction sites by contractors or subcontractors for non-dwelling purposes. (01/13/98,TA-97-10, Ord. No. 001-98)
- 18-17-2     The Administrator may, upon application by a property owner or lessee, grant a temporary permit to locate a mobile unit to be used for non-dwelling purposes. For purposes of this Section the term mobile storage unit shall include licensed or unlicensed tractor trailer trailers that are used for storage and remain on site for more than five (5) days as well as containers trucked to and unloaded at the site. A temporary permit shall not be issued until the Administrator determines that the location of the mobile unit meets the setback and yard requirements for a permanent structure in the applicable zoning district and that there is adequate parking, fireprotection, pedestrian access, sight obstruction and separation from off-street parking areas. Mobile storage units shall occupy an area no larger than ten percent (10%) of the gross floor area of the primary use served by the unit or 400 square feet whichever is greater. A waiver of the off-street parking area paving requirements of this Ordinance may be granted by the Administrator when it can be shown that another material is more appropriate and adjoining streets or properties will not be adversely affected. In reaching such determinations, the Administrator may seek advice from appropriate City departments. The maximum time for the initial temporary permit for mobile units other than mobile storage units is one (1) year from the date of initial occupancy. The maximum time for the temporary permit mobile storage units is 120 days from the effective date of the permit . There shall be a minimum of 11 months between the issuance of one mobile storage unit permit and issuance of a new mobile storage unit permit associated with the same user. (01/13/98,TA-97-10, Ord. No. 001-98 )
- 18-17-3     The Administrator may, upon application by an event's sponsors, issue an event permit, for bona fide festivals, fairs, carnivals, bazaars or similar

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events, to cover all mobile facilities authorized by the event's sponsor to participate in the event. The maximum time for such a permit is limited to the duration of the event.

- 18-17-4 When deemed appropriate by the Administrator or when requested by the applicant, initial applications may be referred to the Commission for review and the City Council for approval.
- 18-17-5 Requests for renewal of an initial permit shall be referred to the Commission for review and to City Council for approval. An application shall be considered a renewal application if the application is received within 60 days of the expiration of a temporary or event permit for the same location. The maximum duration for each permit renewal is one year from the expiration of the last permit.
- 18-17-6 City Council, when acting on an initial or renewal application, may exercise discretion and waive or modify applicable standards when the applicant has shown just cause and when such a waiver or modification is appropriate for a temporary use.
- 18-17-7 The applicant for initial permit or renewal of a permit shall submit to the Administrator a letter outlining the request, a sketch site plan drawn to scale which addresses the factors outlined above and the fee as per Section 23-8 of this Ordinance.

### **SECTION 18-18. PROJECTION OF STRUCTURES BEYOND PROPERTY LINES.**

- 18-18-1 No marquee, permanent awnings, pent roofs, porches, or similar structures that will be permanently attached to a City sidewalk or will be less than eight (8) feet above a City sidewalk, shall be erected, altered, or remodeled to extend closer to the curb line than any other adjacent existing building, porch, or other structure, but in no case closer than five (5) feet in from the curb line. (7-11-78)
- 18-18-2 Marquees, permanent awnings, pent roofs, or similar structures shall not project closer than five (5) feet in from the curb line, and shall not be less than eight (8) feet above a City sidewalk. (7-11-78)
- 18-18-3 Marquees, permanent awnings, pent roofs, or similar structures attached to buildings fronting on the Loudoun Street Mall shall not project more than four (4) feet from the front property line, and shall not be less than eight (8) feet above the City sidewalk. (7-11-78)

### **SECTION 18-19. HOME OCCUPATIONS. (10-11-83, CASE #83-06, ORD. NO. 034-83)**

## GENERAL PROVISIONS

- 18-19-1 Home occupations are permitted in any dwelling unit.
- 18-19-2 A home occupation is an accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services; and conducted in a dwelling unit only by a person or persons residing in the dwelling unit, provided that:
- 18-19-2.1 It is clearly incidental and subordinate to the dwelling unit's use for residential purposes by its occupants;
- 18-19-2.2 It is conducted in the main building and does not result in alteration of the appearance of the dwelling unit or the lot on which it is located;
- 18-19-2.3 It is not identified by any sign or by a display of merchandise visible from the exterior of the building;
- 18-19-2.4 It does not involve the storage of goods and materials in excess of fifty (50) square feet of floor area. This storage may be either in the main building or an accessory building, but it shall not be permitted outdoors.
- 18-19-2.5 No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
- 18-19-3 The operation of a day care facility for not more than five (5) children shall be considered a permitted home occupation, provided that the other provisions of this section are complied with.
- 18-19-4 Permitted home occupations shall not in any event include:
- Animal hospitals
  - Auto repair
  - Dance instruction
  - Restaurants
  - Tourist Homes
- 18-19-5 A yard sale shall be considered a permitted home occupation, subject to the following:
- 18-19-5.1 No more than two yards sales may be conducted at any street address within a 12 month period. For the purposes of this section, each dwelling unit in a multifamily dwelling shall be considered a separate street address. If there is no space to hold the sale at the sale holder's address, the yard sale may be held at a property within 300 feet. Such a yard sale

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counts as a yard sale at the property where the sale is actually held.  
(3-8-94, Case TA-94-01, Ord. No. 006-94)

- 18-19-5.2 Each yard sale may be held a maximum of two consecutive days, and only during the hours of 8:00 a.m. to 6:00 p.m. One two (2) square foot on-premises sign advertising the yard sale may be displayed during the hours of 8:00 a.m. to 6:00 p.m. on the day(s) of the sale. (3-8-94, Case TA-94-01, Ord. No. 006-94)
- 18-19-5.3 A Certificate of Occupancy shall not be required. (3-8-94, Case TA-94-01, Ord. No. 006-94)
- 18-19-5.4 Without the limitation on the authority and responsibility of the Zoning Administrator, or the Board of Zoning Appeals, the Police Department of the City shall have the responsibility and authority to inspect any yard sale to determine compliance with the terms of this Article, and shall have authority to enforce the provisions of this Article, including the authority to file charges under Section 21-2 of this Ordinance against any person operating a yard sale in violation hereof. (10-14-86, Ord. #016-86)

### **SECTION 18-20. STORAGE OF MATERIALS AND SUPPLIES AND DISPLAY OF MERCHANDISE FOR SALE OR RENT. (10-17-95, CASE TA-95-04, ORD. NO. 053-95)**

- 18-20-1 The Commission or Administrator, as provided for in the following Sections, may, upon application by a property owner or lessee, grant a permit for outdoor storage of materials and supplies or for outdoor display of merchandise for sale or rent, hereinafter known as storage or display. A permit shall not be issued until the Commission or Administrator determines the storage or display meets the requirements of this Ordinance, the City Code or Public Utilities Standards for each of the following areas: screening or buffering, off-street parking, landscaped area, stormwater management, fire protection, vehicle and pedestrian access, signage, sight obstruction, and separation from off-street parking areas. Display of merchandise for sale or rent located adjacent to standing and loading spaces, including petroleum dispensers, need not comply with the off-street parking separation requirements. In reaching such determinations, the Commission or Administrator may seek advice from appropriate City departments. No permit is required for display of merchandise for sale or rent if the area covered by such display does not exceed two (2) percent of the floor area of the permanent building on the lot, but not to exceed 200 square feet, if the height does not exceed six (6) feet and if the location meets the setback and yard requirements for a



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permanent building on the lot. (10-17-95, Case TA-95-04, Ord. No. 053-95)

- 18-20-2 Permanent storage or display is allowed as provided for in the following table. There must be a permitted or conditional use on the property. The storage or display must be incidental to the conduct of such use. A site plan prepared in accordance with Article 19 of this Ordinance shall be submitted for Commission approval. (10-17-95, Case TA-95-04, Ord. No. 053-95)
- 18-20-3 Seasonal storage or display allowed as provided for in the following table. A site sketch addressing the elements in Section 18-20-1 of this Ordinance accompanied by the fee as per Section 23-8-14 of this Ordinance shall be submitted to the Administrator for approval. Two seasonal permits per lot per 12 month period are allowed. Each permit shall be for no longer than 3 months. (10-17-95, Case TA-95-04, Ord. No. 053-95)
- 18-20-4 Temporary storage or display is allowed as provided for in the following table. Temporary storage or display is limited to two periods per lot per year. Each period shall be no longer than 14 days. No permit is required. (10-17-95, Case TA-95-04, Ord. No. 053-95)
- 18-20-5 Storage or display is allowed as shown in the following table if required screening and/or landscaping is provided. No storage or display shall be situated within ten (10) feet of any front or corner side property line nor within five (5) feet of any side or rear property line except in the Central Business District (B-1) and Residential Business (RB-1) zones, where storage or display shall not be situated within four (4) feet of front and corner side property lines nor three (3) feet of side and rear property lines. The requirement for landscaping or screening may be waived by the Commission or Administrator where the waiver is not adverse to the purpose of this Section and the applicant establishes that in his specific case an undue hardship would result from a strict enforcement of this Section, or that the requirement is unreasonable. The following uses shall be exempt from the screening requirements of Table Items A and D of this Section: sales, leases, or rentals of motor vehicles as defined in Section 46.2-100 of the Code of Virginia, as amended; nursery plant stock for nurseries, and agricultural and construction equipment sales or rentals. Any other person who demonstrates to the Administrator or Commission on appeal that the items requested to be stored or displayed outside are similar in nature to the categories of items exempt from street screening

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shall also be exempt from the street-screening provisions of this Section.  
(10-17-95, Case TA-95-04, Ord. No. 053-95, 3-8-05, TA-04-08)

District	Permanent	Seasonal	Temporary
RB-1	N/A	ABCE	F
B-1	BCDE	ABCE	F
B-2	BCDE	ABCE	F
CM-1	BCDE	ABCE	F
M-1	BCDE	ABCE	F
M-2	BCDE	ABC	F
PC	N/A	ABCE	F

N/A	Not allowed.
A	Raised landscaping meeting Section 19-5-6.4b of this Ordinance to adjacent streets.
B	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent residential uses.
C	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent residential zones.
D	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent streets
E	Opaque screening meeting Section 19-5-6.4d of this Ordinance to adjacent property in a less intense zoning district.
F	No additional screening or landscaping requirements

### SECTION 18-21. LOT AREA CALCULATION.

- 18-21-1 For purposes of calculating required lot area, Total Project Area, and landscaping, buffer, and recreational area, narrow portions of lots which are less than one-third (1/3) of the required lot width shall be excluded from the calculations. (12-13-88 Case TA-88-10 Ord No. 052-88)

### SECTION 18-22. UNDERGROUND INSTALLATION OF WIRE AND CABLE UTILITIES. (9-12-89, CASE TA-89-03, ORD. NO. 024-89)

- 18-22-1 For any new projects, or for any remodeling or renovation of an existing project which requires an increase in service capacity, distribution lines for electrical, telephone, cable television and any other services requiring wires or cables shall be installed underground. The Administrator may waive, after petition by the property owner, this requirement for residential work when the administrator determines that such waiver is warranted because there are few if any utility poles on the project side of the street and a waiver will prevent the installation of additional utility poles. Such petition shall be made in the form prescribed by the Administrator and accompanied by the fee as per Article 23 of this

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Ordinance. (9-12-89, Case TA-89-03, Ord. No. 024-89, 12-13-94, TA-94-11, Ord. No. 002-95)

### **SECTION 18-23. RE-ADVERTISEMENT FEES.**

18-23-1 In the event any public hearing required by this ordinance is delayed at the request of an applicant, the applicant shall pay a re-advertisement fee in the amount of Thirty Dollars (\$30.00) prior to the deadline for applications for the desired public hearing date. (04-10-90 CaseTA90-13 Ord. No. 011-90)

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